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July 11, 2016

VIA ECF

The Honorable Paul A. Engelmayer  
United States District Court Judge  
United States District Court  
for the Southern District of New York  
40 Foley Square, Room 2201  
New York, NY 10007

Re: *Vasto v. Credico (USA) LLC, et al.*, Case No. 15-cv-9298 (PAE)(HBP) [rel. 15-cv-5237]

Dear Judge Engelmayer:

Defendant Credico (USA) LLC (“Credico”) respectfully requests leave to file an amended answer to Plaintiff’s First Amended Class Action Complaint (“FAC”). Credico, through former counsel, responded to the FAC on September 28, 2015 and filed an amended answer on February 4, 2016. Our firm was subsequently substituted as counsel of record for Credico on June 22, 2016 (ECF No. 129). Since that time, we have reviewed the allegations and potential defenses in this matter and conferred with our client regarding the same.

Accordingly, and pursuant to Rule 15 of the Federal Rules of Civil Procedure and the Civil Case Management Plan and Scheduling Order in this matter (ECF No. 124), Credico hereby moves for leave to file a Second Amended Answer, attached hereto as Exhibit A. The Second Amended Answer clarifies some of Credico’s responses to the allegations in the FAC and asserts additional affirmative defenses. A redline showing the changes contained in the proposed amended pleading is attached hereto as Exhibit B.

Credico is expressly permitted to amend its pleadings with leave of the Court pursuant to the Civil Case Management Plan and Scheduling Order (ECF No. 124). Moreover, Rule 15(a) provides that such “leave should be freely given when justice so requires.” Fed. R. Civ. P. 15. In accordance with the express terms of Rule 15, courts have held that leave to amend should generally be granted absent a substantial reason for denial. *See, e.g., Green v. Dist. Council 1707, Am. Fed’n of State, Cty. & Mun. Employees, AFL-CIO*, 2015 WL 4621107, at \*1 (S.D.N.Y. Aug 3, 2015) (Engelmayer, J.) (granting defendant leave to amend its answer and noting that “[l]eave to amend is generally granted in the absence of factors such as bad faith, undue delay, prejudice to the opposing party, or futility of amendment”).

We reached out to plaintiffs’ counsel today regarding this proposed amendment but, as of the time of filing, have not yet received a response. Plaintiffs will suffer no prejudice

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by the granting of this Motion because, among other reasons, this action remains at an early stage. Indeed, the opt-in period in this matter has not yet closed, and no discovery has been taken. Moreover, Initial Disclosures were not due to be exchanged between the parties until July 8, 2016, one business day prior to the filing of this Motion. Therefore, plaintiffs will have ample opportunity to explore any and all additional defenses and revised responses to the extent necessary.

Credico respectfully moves this Court for leave to file a Second Amended Answer, attached hereto as Exhibit A.

Sincerely,

/s/ Gabrielle Levin

Gabrielle Levin

cc: All counsel of record (via ECF)